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ABSTRACT

To establish an objective conception of human rights, one must first identify basic needs intrinsic to all people and then determine whether these needs are or can be hierarchically ordered. Many scholars have conducted research on the concept of human needs, particularly in the area of human rights. Among these scholars are Abraham H. Maslow ("The Psychology of Science: A Reconnaissance"); J.C. Davies ("Human Nature in Politics"); and Christian Bay ("The Structure of Freedom"). Basic human needs identified by these and other scholars provide a general outline for a hierarchy of human rights. Most basic of these rights are satisfaction of physiological and safety needs. Physiological rights are interpreted to include the right to life and to bsic requirements such as food, water, and air. Safety rights include protection from physical or psychic injury. Next in importance after physiological and safety rights are gratifications such as love, esteem, and self-actualization. The author concludes that this objective and hierarchical conception of human rights avoids drawbacks of traditional definitions of human rights based on (1) historical and cultural traditions, (2) philosophical systems such as Marxism or positivism, or (3) a general perception of equal and universal human worth. Difficulties related to traditional conceptions of human rights include cultural and ideological parochialism, vagueness, difficulty of definition, and confusion of natural desires and natural rights. (DB)

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A HIERARCHY OF HUMAN RIGHTS

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Western discussions of human rights usually begin with the differentiation between "positive" rights and "moral" rights. The former are those specified by existing law; they are the rights protected by law in a given society. The latter, on the other hand, transcend what is and are based instead on a sense of what ought to be. As an approach to human rights, the second claims such moral rights are universal; they are rights which belong to a person simply because one is human.[1] Some would deny the existence of such universal rights of individuals. A positivist, for example, would argue that the only rights are those actually protected by positive law. Such a position, however, is contrary to contemporary sensitivities and needs. We need universal principles by which we can establish international codes of behavior, including the treatment of people by their own government. The positivist position was largely silenced by Nazi Germany and Stalinist Soviet Union; there have been sufficient barbarities since to keep the lesson alive.

Because the United Nations says we all have human rights -- and quite a few, evidentally -- does not, however, logically prove the case. Nor can our need as a world community create the object of our desire. In fact, a convincing justification of universal human rights is problematic, more so than is usually admitted. An example is the often-cited work of Maurice Cranston. There are human rights, he says; they are "the rights of all people at all times and in all situations."[2] We need to know what are these rights and where do they come from, that is, what makes them "universal" and "rights"?. The source of such rights for Cranston, evidentally, is "natural desire". Writing of the "right to life", he notes that "man has a natural desire to survive, a natural impulse to defend himself from death and injury". Again, about the "freedom of movement", he explains that the "desire to move is a natural, universal, and reasonable one".[3]

Several problems arise, and they are typical of such arguments.[4] What is meant by a "natural desire"? How does a natural desire become a natural right? How many natural desires/rights are there? Are some of these desires/rights more basic than others? How can can we tell? Cranston does not answer these questions. But to have a defensible and useful concept of human rights they must be addressed. In

fairness to him and other scholars in this area, it is true that once we leave the realm of moral systems where, for example, all people "are endowed by their Creator with certain Unalienable Rights", it is most difficult to find a source for human rights which permits satisfactory answers to such questions. But, it must be done.

This difficulty is compounded by the distortions resulting from cultural and ideological parochialism. It is frequently argued that Western conceptualizations represent "a parochial view of human rights."[5] These traditional definitions of human rights grew out of the historical evolution of a few Western nations. The cultural traditions and historical experience of these nations are not representative for all the world's people. A system of human rights based on this narrow experience, it is maintained, is therefore ethnocentric and arrogant.[6]

A more difficult blinder to remove is the ideological one. Marxist writers correctly note that Western conceptions of human rights are usually unexamined projections of values basic to capitalist society. This tradition rejects the distinction between human rights and positive rights; all rights are instead "citizen's rights". Furthermore, "all right is derived from the state". But the arbitrariness of the positivist position is also rejected. Citizen's rights are "determined by objective circumstances".[7] Asserting the unity of all rights, Marxists have elevated social and economic rights to a co-equal status with the traditional civil and political rights. Because of the "inextricable connection" between them, there are no grounds for establishing priorities between these sets of rights.[8]

Even accepting most of the Marxist position, we still do not have to abandon the search for an objective concept of human rights. Even if we were to grant that prevailing "social pretensions to human rights...are ultimately determined by the material living conditions of the society",[9] and even if we were to accept that "the realization of human rights and fundamental freedoms depends primarily on the social and economic structure of society",[10] it does not necessarily follow that there is no objective basis separate from prevailing property relations for deriving human rights.

It is the basic contention of this paper that in fact there is a standard from which a valid and useful understanding of human rights can be derived. It will be argued that there are basic needs intrinsic to all people and that these needs are hierarchically ordered. Accepting these needs as the source for human rights gives us a conceptualization of human rights that can be culturally and ideologically objective, and which can logically order the various rights in a meaningful hierarchy.[11] We can then say that there are human rights, what these rights are, and establish priorities among them. It will be demonstrated in this paper that a basic needs approach provides a useful understanding of human rights. I hope to show that it also has greater validity.

Human rights, as Feinberg argues, "presupposes a concept of equal and universal human worth that is to be sharply distinguished from the idea of human merits."[12] Individual worth is instead based on something more basic than merit (which, of course, would make it conditional). There must be some characteristic(s) shared by all individuals, then, which is the source of their equal (unconditional) worth. Many have been suggested, Feinberg points out, "almost all of them inadequate". This failure "to name" the correct trait, he concludes, is perhaps unavoidable. It is more likely that "universal 'respect' for human beings is, in a sense, 'groundless' -- a kind of ultimate attitude not itself justifiable in more ultimate terms." Feinberg goes on to observe "that most normal people are disposed to fall into that attitude whenever their attention is drawn to certain traits of all humans, or when they acquire the habit of looking at (or conceiving) their fellows in a certain way."[13]

To see those qualities in others is also to claim them for ourselves. In fact, we are more likely to look at others in this way (have this attitude) if we are "in touch" with that "place" in ourselves, or those "qualities" in ourselves. Perhaps what we are responding to, in part, is our shared ability (or potential) to experience others (each other) -- and even the whole world -- in such a way. My point, then, is not just that we can posit the inherent worth of all people but that we are capable of experiencing the inherent, "groundless and ultimate" worth and dignity of others. It is a

statement for which we come equipped with our own "tools" for verification. But, Feinberg is probably correct that this attitude "is not grounded on anything more ultimate than itself, and it is not demonstrably justifiable."[14] It can be verified by experience. It is stated as truth by various spiritual and moral traditions. But a rational proof convincing to all probably can not be made.

The reader, then, will accept, it is hoped, the validity of an equal moral worth of all people which can be experienced as a groundless and ultimate respect or love. This attitude is akin to what Maslow has described as the love of a grandparent for a grandchild, the love of the most "mature" people at their "best" moments, and the attitude of what he calls "Taoistic science"; that is, "if you love something or someone enough at the level of Being, then you can enjoy its actualization of itself...you love it as it is in itself."[15] In this attitude the desire is to allow the child to be, to love the child for what s/he is, to allow the child to become what s/he can be. The attitude is to allow the individual to mature into its unique potential.

Since each individual is of equal moral worth, then each has equal claim to the opportunity to meet one's basic needs, to the realization of one's potential.[16] To deny this claim would be to negate the validity of equal moral worth. As noted above, we possess the ability to experience the unconditional moral worth of others. But, it will be argued shortly, this ability is itself usually the result of maturation. That is, it is an ability (and also, finally, a need) which is usually dependent on the gratification of prior needs. To deny an equal right to the gratification of these prior needs would be to deny to some the very ability to experience their own equality in this way. When we experience unconditional respect for others, are we not, at least in part, responding to their potential to do the same? And is this not an affirmation of their right to develop this potential?

For some, such considerations raise the specter of the "naturalist fallacy", of the erroneous assumption that "what is" means that it is "what ought to be". At times, though, this fallacy itself can be misleading. If it is accepted, as will be shortly argued, that people have innate needs and

that the healthy development of the individual depends on the gratification of these needs (while deprivation inhibits development and can even lead to sickness), then it is clear that the human organism posits its own values. Such a value system is not invented or projected but is "intrinsic in the structure of human nature itself."[17] Furthermore, Maslow has claimed that his research indicates that for the "healthiest" people (which means, in part, a more objective perception of reality), fact and value fuse. He points out that

> when we examine the most ego-detached, objective, motivationless, passive cognition, we find that it claims to perceive values directly, that values cannot be shorn away from reality and the most profound perceptions of 'facts' causes the 'is' and the 'ought' to fuse.[18]

All people have certain basic needs. Being of equal moral worth, each person has an equal right to the opportunity to fulfill these needs.[19] It is from this right that a sound and useful conceptualization of human rights can best be established. It is to the discussion of these needs/rights to which I will now turn.

THE HIERARCHY OF HUMAN NEEDS

The concept of human needs is increasingly utilized in both political life and scholarship, especially in the area of human rights. Claims are frequently made that people have specific needs and a right to the fulfillment of those needs (or, at least, equal opportunity at fulfillment). Along with frequent use, however, has come many and varied typologies. This paper will use the hierarchy of human needs elaborated by Maslow. It appears to be the superior conceptualization by virtue of its coherence, depth, consistency, and thoroughness. Furthermore, it is more explicitly related to an overall understanding of the human organism and human motivation. Finally, it is the need theory taken most seriously by other scholars.[20]

Maslow's conceptualization of intrinsic basic human needs is presented in the context of a theory of human motivation. He begins with the view that "the individual is an

integrated, organized whole". When a person is motivated by a need the whole person, not a fragment, is motivated. Most desires "are usually means to an end rather than ends in themselves", he points out. An analysis of this means-end chain eventually leads to "certain goals or needs beyond which we cannot go". These ends, which are often unconscious, are the primary cause of motivation. It is unusual, however, for an act or a conscious wish to have but one motivation. Furthermore, motivation is "constant, never ending, fluctuating, and complex."

Taking into consideration the complex nature of motivation, Maslow claims that only a concept of fundamental needs can provide a "sound and fundamental basis" for the construction of a classification of motivational life. All other approaches, such as introspectively determined drives, overt behavior, or apparent goals, are subject to numerous pitfalls. This focus on needs, however, does not deny the importance of situational factors but rather supplements them.[21]

Maslow chooses fundamental needs as the key to understanding motivation, not only because other approaches are insufficient, but primarily because he believes there is good evidence to consider them as intrinsic to human nature. All clinical evidence, he asserts, shows that these needs can not be frustrated without sickness eventually resulting. This is not true for all other desired ends such as habits, neurotic needs, preferences, so on. "If society creates and inculcates all values", he asks, "Why is it only some and not others are psychopathogenic when thwarted?" On the other hand, gratification of these needs leads to results which may be objectively called "good"; that is, opportunities for basic need satisfaction are the alternatives "that the healthy organism itself tends to choose, and strives toward under conditions that permit it to choose".[22]

According to Maslow there are five sets of these universal instinctoid needs: physiological, safety, love and belongingness, esteem, and self-actualization. The needs are "organized into a hierarchy of relative prepotency", that is, the motivational life of the individual is dominated by the lowest unsatisified need. In situations of sufficient continual deprivation, the unsatisfied need

becomes an "almost exclusive organizer of behavior, recruiting all the capacities of the organism" to its service. Continual gratification of a need, though, can release the individual from its motivational force. As it is satisfied, the next need emerges, and so on.[23]

Maslow does not specify the main physiological needs, pointing out that any list will vary according to the level of specificity. These are the tissue requirements of the organism, such as food, water, sleep, adequate temperature, and so on. The significance of the physiological needs can not be stressed too much. An inadequate diet makes the body more susceptible to the damages of diseases and parasites. These three, often working in concert, rob the body of nutrients and energy. Malnutrition beyond a certain level also leads to attitudinal syndroms of apathy and hostility. These factors combine to lessen the likelihood that the individual will have the desire or energy required to create living conditions allowing further need gratification. Most importantly, serious lack of protein in early childhood cripples the child's brain development. As a consequence, further need gratification has been limited as potentialities have been lost.[24]

Maslow categorizes roughly as safety needs "security, stability; dependency; protection; freedom from fear; anxiety, and chaos; need for structure, order, law, limits; strength in the protector, and so on". He adds that philosophical and religious systems are also "in part motivated by safety seeking" since they give order to the world. He justifies the inclusion of this need primarily on the basis of child development literature, which he summarizes as demonstrating:

> that the average child...in our society generally prefers a safe, orderly, predictable, lawful, organized world, which he can count on and in which unexpected, unmanageable, chaotic, or other dangerous things do not happen, and in which, in any case, he has powerful parents or protectors who shield him from harm.

He also adds that people who have not had their safety needs satisfied "are particularly disturbed by threats to authority, to legality, and to the representatives of the law".[25]

In his discussion of Maslow's need hierarchy, Davies maintains that the inclusion of the safety needs creates a difficulty because "it appears to be an incongruous subset in an otherwise homogeneous set". The other needs, he explains, "seem quite clearly to be pursued for their own sake, but it seems dubious that mentally healthy people pursue safety for its own sake". Davies instead views safety and security as "instrumental to the basic needs: not ends in themselves but means to an end". People strive to be secure in their ability to satisfy the other needs, he claims, "but not to be secure for the sake of being secure".[26]

It is apparent that Maslow's discussion of the safety needs, as summarized above, includes three fairly distinct dimensions: security, frame of reference and meaning, and physical safety. The instrumental nature of security does set it apart from the other two dimensions and the other sets of needs. Furthermore, its inclusion is redundant since its instrumental relation to the other needs means that it is already taken into account by those needs. This follows from the nature of the motivation theory underlying Maslow's need hierarchy. Each need has, in a sense, a security dimension. Sufficient gratification of a need requires both the gratification of the immediately felt need and sufficient assurance that such gratification will continue in the future (or, that such is possible, if desired). The latter two dimensions of what Maslow calls the "safety needs" remain, however, as needs of the organism. Growth proceeds better when the body is protected from injury and the mind from "too much" disorientation.[27]

The next need to emerge is what Maslow identifies as belongingness and love. Once the physiological and safety needs "are fairly well gratified" the individual "will feel sharply the pangs of loneliness, of ostracism, of rejection, of friendlessness, or rootlessness". The individual's well-being requires that these needs be gratified. Maslow points to literature and sociology as providing evidence for belongingness to be considered as a need and, similarly, to clinical experiences for love. This evidence demonstrates, he notes, that the "thwarting of these needs is the most commonly found cause in cases of maladjustment and more severe pathology" (in developed countries).[28]

While he also points out that these needs involve both the giving and receiving of love, he unfortunately

does not offer a clear conceptualization of love itself. Instead, he distinguishes love in self-actualizing people from love in most people, and he elaborates at some length the nature of self-actualizing love.[29] The nature of this distinction implies a continuum rather than a dichotomy, but this is left only as an implication. Since this question relates to several problems some writers have identified in the need hierarchy it shall be returned to below.

Maslow claims that after sufficient gratification of the prior needs people desire "a stable, firmly based, usually high evaluation of themselves". This need has two dimensions: self-esteem, which is "the desire for strength, for achievement, for adequacy, for mastery and competence,... and for independence and freedom"; and the esteem of others, whether that be reputation, prestige, dominance, recognition, attention, dignity, or appreciation. Thwarting of these needs, Maslow explains, results in "feelings of inferiority, of weakness, and of helplessness", feelings which can cause either "basic discouragement" or neurotic compensations.

Drawing on the work of therapists, theorists, and novelists, he again implies different qualitative levels at which this need may be gratified. He draws a qualitative distinction between esteem based on the opinion of others and that based on their deserved respect. And with the latter it is useful, he says:

> to distinguish the actual competence and achievement that is based on their will-power, determination, and responsibility, from that which comes naturally and easily out of one's own true inner nature, one's constitution, one's biological fate or destiny, or as Horney puts it, out of one's Real Self rather than out of the idealized pseudo-self.[30]

A major difficulty presented by Maslow's theory is the close but ambiguous relationship between love and esteem. Although love as a need is prior to esteem in the hierarchy, it would not be unreasonable to hypothesize that the quality of one's love gratification would be in part a function of the degree of one's esteem; in other words, that the relationship works both ways. Maslow does not elaborate on this and related questions, yet they can be answered by

interpolating from a few related points he does make. This clarification will be particularly crucial for the transformation of human needs into human rights.

Part of the answer to the above paradox is supplied by Maslow's stress on degrees of relative satisfaction. The safety need, for example, need not be satisfied 100% before emergence of the love need is possible. Instead, it gradually emerges, dependent on the degree of satisfaction of the safety need. He conjectures that when the prior need is perhaps 25% satisfied, the love need then might emerge 5%. By way of illustration, Maslow suggests it is as if the average person has satisfied perhaps 85% of the physiological needs, 70% of safety, 50% of love, 40% of self-esteem, and 10% of self-actualization.[31] He is implying, then, that an ill-fed person will be motivated by the desire for love, although usually not to the extent of a well-fed person. Most likely a habitually starving person will not share this concern.

It should be remembered that Maslow specified qualitative differences between types of love (and also between levels of esteem). Based on these two points, Maslow's hierarchy can be better conceptualized as a series of hierarchically arranged hierarchies; in other words, that each of the basic needs has its own qualitative hierarchy. Unlike the basic hierarchy, the qualitative hierarchy does not imply a motivational sequence but instead represents qualitatively distinct forms of gratification which can be linked in a casual relationship with further basic need gratification.

Following Maslow's theory, the esteem needs, for example, must be sufficiently gratified before self-actualization is possible. These needs can be satisfied in a number of ways. Maslow points out though, that "we have been learning more and more of the danger of basing self-esteem on the opinions of others rather than on real capacity, competence, and adequacy to the task". And with the latter, he suggests that esteem based on a competence growing out of "one's own true inner nature" is superior to that resulting from will power and determination. Gratification drawn from any of these three sources can provide need satisfaction. It is, however, the difference between a house built on a foundation of sand and one built on rock; the probability of permanence varies greatly.

These various sources of esteem gratification also appear to vary in the degree to which they encourage fulfillment of the other needs. In other words, we can attempt to gratify our esteem needs in a variety of ways, but only some of these alternatives will be likely to promote our future development. There is a qualitative difference, then, between these latter forms of gratification and those which do not facilitate growth, and perhaps even inhibit it. In other words, a need will most likely be more fully and more permanently satisfied the higher the quality level of the gratification.

The same point can also be established in regards to the love needs. In one of his later articles, Maslow discussed five qualitatively different types of love, ranging from expositive "ownership" to fusion at the "being" level.[32] We can, therefore, conceptualize forms of love as being arranged along a qualitative continuum. The needs for esteem and self-actualization will emerge as the individual moves up the continuum. On the other hand, it would be very unusual to reach the higher levels of love without sufficient gratification of the esteem and self-actualization needs.[33]

The bulk of Maslow's work attempted to understand and describe self-actualization and self-actualizing people. Most simply, self-actualization refers to "man's desire for self-fulfillment, namely, to the tendency for him to become actualized in what he is potentially." It is at this level that individual differences are the greatest, he says, because "the specific form that their needs will take will of course vary greatly from person to person."[34]

In order to more clearly understand this concept it is necessary to distinguish between the self-actualization need and self-actualizing people. When the lower needs have been sufficiently satisfied "we may still often (if not always) expect that a new discontent and restlessness will soon develop unless the individual is doing what he, individually, is fitted for".[35] This does not mean, however, that such an individual is now a self-actualizing person. Such a person is now only at the point "where real development, i.e., of individuality, begins". Unlike the lower

needs which "may be considered as external qualities that the organism lacks and therefore needs," self-actualization is "not a lack or deficiency in this sense", Maslow explains; it is not

> something extrinsic that the organism needs for health, as for example, a tree needs water. Self-actualization is intrinsic growth of what is already in the organism, or more accurately of what <u>is</u> the organism itself...In a word, development then proceeds from within rather than from without, and paradoxically the highest motive is to be unmotivated and nonstriving, i.e., to behave purely expressively. Or, to say it in another way, self-actualization is growth-motivated rather than deficiency-motivated.[36]

A person who has sufficiently satisfied the lower needs is free to self-actualize and will usually feel an internal pressure to do so. The self-actualized person has already largely accomplished this growth. The difference between the two is briefly that between <u>becoming</u> and <u>being</u>.[37]

Intrinsic to this process is the development of a particular kind of value system. Because of the level of need fulfillment, a value system growing out of concern for security or esteem, for example, would not be relevant; rather, one would expect a stress on the development of the potentiality of all humanity and a focus on the "higher virtues". This in fact is what Maslow's research discovered. The "preferences, choices, desiderata, values of self-actualizing people" are quite similar to "what have been called the eternal values, the eternal verities". In addition, the consensual description of the world during and after a "peak experience" is cast in remarkably the same terms. The "described characteristics of reality" by such people are in terms of "truth, beauty, wholeness, dichotomy-transcendence, aliveness-process, uniqueness, perfection, necessity, completion, justice, order, simplicity, richness, effortlessness, playfulness, and self-sufficiency". Maslow calls these "Being-values". Additionally, he believes that the social environment affects the possibility for self-actualization and that an environment more in accord with these values would be more conducive to human development. The Being-values are in themselves needs, then, for both reasons.[38]

In summary, Maslow contends that truth, beauty, and justice, as well as protein, are needs intrinsic to the human organism. The development of the organism is dependent on the gratification of these instinctoid requirements. Protein, however, is a much more salient need than beauty. Needs are not simultaneously felt, all clamoring for attention at once. They come in an invariant sequence; higher needs and potentiality remain uncovered pending lower need gratification.

THE HIERARCHY OF HUMAN RIGHTS

At first thought the translation of needs into rights might appear relatively easy -- for each need, simply change it into a right. Such is not the case. The motivational life of one individual in a complex social context is not simple. Neither is Maslow's theory. Each need is actually a set of needs. Need gratification is not an either/or phenomenon, but rather of degrees of fulfillment. Furthermore, the needs are interrelated; the form of fulfillment can influence the likelihood of gratifying higher needs.[39] The translation of needs into rights, then, must be attempted cautiously and viewed critically. It should also be noted that the validity of the inferences from Maslow's work made in this section should be empirically verifiable. If the basic approach elaborated thus far is accepted, then disagreements with what follows, for the most part, are not irresolvable normative conflicts; they should be amenable to empirical resolution.[40]

Despite these qualifications, the basic needs do provide the overall outline of the hierarchy of human rights. Accordingly, the most basic human rights are to the gratification of the physiological and safety needs.

The physiological rights refer to the right to life itself and to the basic requirements for life, including food, water, and air. To speak simply of a basic right to adequate nutrition, however, will not suffice; need gratification is a matter of degree. A person does not require a well-balanced diet for "x" period of time prior to feeling genuine pangs of loneliness. It is not a precondition for the emergence of higher needs. Somewhat artificially, we can differentiate between qualitative levels of physiological gratification; they are as follows: severely inadequate, mildly inadequate, adequate, and optimal.[41]

Recalling that qualitative differentiations were also postulated for the higher needs, it can now be seen that need gratification is not a process of complete fulfillment of one need and then on to the next. Instead, partial gratification suffices for emergence of the next need, but at some point further growth will necessitate more complete gratification. In terms of a right to food, then, the right to an "adequate diet" is probably not prior to some of the other needs; improvement of a "severely inadequate" diet probably is. After the right to life itself, then, the most basic human right is to mildly inadequate gratification of the physiological needs.

The question of a sometimes proposed right to clean air and water can be adequately resolved using this approach. Many people in Los Angeles, for example, are working on their higher needs; obviously clean air and water are not among the most basic needs/rights. They might be, however, among the latter rights for reasons of more optimal health, aesthetics, and inner peace. Air and water are basic rights; purity is a different question. Purity, though, is a matter of degree. Water can be so unclean that it is seriously injurious to health. While the tissue requirement for water is met, the safety needs are threatened. Accordingly, public health measures sufficient to insure adequately sanitary conditions are part of the safety needs. What seems as a simple right to air and water, then, is actually a series of rights derived from across the need hierarchy.[42]

Since security of future gratification is necessary for more complete fulfillment of each of the basic needs, at some later point sufficient economic security becomes a need which must be met for further growth. Within this paper's framework, it would be incorrect to speak of specific social programs such as guaranteed jobs or social security as human rights. On the other hand, this framework does provide a sound base for the claim to a certain measure of economic security as a human right. How a society provides for such gratification is a question of policy; whether it provides for sufficient gratification is a question of right.

While the physiological rights involve the claim to life itself, the safety rights pertain to the protection of life from injury, either physical or psychic.[43] The physical dimension involves safety from physical harm -- from whatever source, be it torture by the state or by a political group, or assault by a robber, a husband, or a drunken driver.[44] Also included among these rights is basic health care for

children, especially prenatal and post-natal care, since it is so crucial to the rest of one's development.[45]

There is a close connection between physical and psychic safety. Torture is certainly psychologically, as well as physically, destructive. Beyond the trauma of physical harm, however, is what Maslow discusses as the need for "a safe, orderly, predictable lawful, organized world" to satisfy this need.[46] The individual, therefore, has a right to safety from arbitrary and unpredictable actions and disorders of a significantly destructive nature, be they from the state or private individuals or groups (terrorists, hoodlums, vigilantes, etc.). More specifically, the individual has rights to due process and freedom from unlawful entry, search and seizure, and from seriously threatening behavior.[47]

With partial gratification of the prior needs, most people begin to be motivated by the needs for love and esteem. Under most circumstances, they will undoubtedly find some gratification. These are, however, needs with vast qualitative distinctions between the lowest and highest forms of gratification.[48] And while people almost always manage to gain some gratification of these needs regardless of the form of social organization, social variables become very important as we move to higher levels of gratification.[49]

Even in highly stratified societies, if one follows the theory articulated here, once the individual's previous needs are sufficiently met there will be a desire for equality. This is true for several reasons, including the desire for equal opportunity to develop one's talents and the desire for social recognition of what is individually felt -- one's inherent equal worth. In both ways equality is important for a firm sense of esteem. The individual, then, has a right to be free from significant prejudice and discrimination, especially in those activities deemed important by society and from which social status is derived (e.g., employment and all major forms of political participation). Furthermore, the individual has a right to equal opportunity to develop one's talents (education and health care are especially important here).

Social forms are also critical because of the effect of social roles and norms. It is hypothesized that as individuals move toward the higher levels of gratification

of the esteem needs and toward self-actualization, the possibilities for gratification of these needs generally will vary according to the scope of social roles and the rigidity of social norms. This follows from the argument that human nature has its own requirements which must be respected by society for people to develop. With sufficient gratification of the previous needs every individual will feel the need for esteem and later, for self-actualization The nature of that gratification, however, must inevitably differ because people are constitutionally different.[50] Because of these differences, for widespread full development it is necessary that there be a wide variety of roles with status, tolerance of a wide range of behavior, and minimal sanctions against nonharmful deviation.[51]

Within this context, freedom exists in society to the extent such definitions permit the maximization of individual potentials; that is, freedom varies with the scope of social roles and norms. Since individuals are unique (physiologically, psychologically, genetically, however it be expressed), at this level individual needs are increasingly idiosyncratic. Individuals usually do not find social roles and norms to be tailored to fit the idosyncratic nature of their needs or their intrinsic temperament and talents. For this reason also, then, the individual has a right to be free from prejudice, discrimination, and sanctions against non-harmful behavior.[52] The scope of this right is broad, ranging from the freedoms of speech, assembly, religion, and movement to nontraditional lifestyles.

Such freedoms are relevant not only to considerations of maximizing potential but also to the opposite, the diminuation of the person. Whether due to genetic structure or pre- and post-natal environment, people differ in temperament, susceptibility to stress, ability to tolerate stress, and predisposition toward serious psychological disorders. Since some people's needs are less congruent with the parameters established by social roles and norms, it follows that the narrower the definitions, the greater the probability of injurious stress for greater numbers of people.[53]

As an example, imagine a society which makes it difficult for a woman to find fulfillment outside the home, outside the roles of homemaker/mother. Some women will be able to find healthy fulfillment within the boundary. Others will

be able to transcend those limitations. On the other hand, many will be frustrated by the definition but, with varying degrees of awareness, compromise with it -- with varying psychic costs (not to mention unrealized potential). Finally, there will be those women who struggle unsuccessfully against the limitations, again with varying degrees of psychic cost, some very serious. As a complementary example, imagine a society which makes it difficult for a man to find fulfillment outside of the role of successful breadwinner. The same considerations should apply.

The freedom from sanctions for "deviant" behavior becomes increasingly important as the individual moves to the higher levels of esteem satisfaction and into self-actualization. Self-actualization is a self-conscious process. The discovery of one's inner nature implies an awareness not only of the object being sought but also an awareness of the search--the process--itself. Undoubtedly the reason why Maslow finds that self-actualizing people are characterized by an ability to transcend their culture is because such transcendence is necessary for, and is part of, this process. This is true because social norms and roles invariably are limiting for a person at this motivational point. This would still be true even if a person's situation were such that there would be an almost complete congruence between one's needs and the relevant norms and roles. The process of self-actualization would still be impeded if the person identified with, and was motivated by, the roles and norms rather than by the conscious realization of one's needs. In other words, the individual's behavior would be a manifestation of social coercion (probably internalized) rather than self-motivation.

It is relevant to the development of human potential for this reason too, then, to question the extent to which a society permits nonharmful deviance from roles and norms. The more severe the sanctions, then the greater are the socially created barriers to self-actualization. The individual, then, has a right to gain freedom from the limitations of roles and norms (in the sense of transcending the culture), to become free of artificial forces limiting the awareness of one's potential and possibilities.

Not only does the individual have a right (and need) to the traditional freedoms ("freedom from") but also to what Bay conceptualizes as "potential freedom"; that is,

"the relative absence of unperceived external restraints on individual behavior".[54] The individual has a right to free "access to all important information available that bears on alternatives of behavior, including value choices, that are or can become open to him."[55] Or, in Fromm's words, the individual has the right to become "aware of the forces which move him behind his back so to speak."[56] Whatever restricts such awareness diminishes the opportunities for self-actualization -- or at least adversely influences its course. While the self-actualization need does not create any new rights, it absolutely reinforces the right to freedom in the broadest and deepest sense.

An empirically and logically defensible hierarchy of human rights has now been sketched. At the risk of being too bold, a ranking of these human rights (and their corresponding freedoms are as follows:

A. Physiological	1.	right to life	(freedom from murder)
	2.	right to food, etc.	(freedom from severe malnutrition, etc.)
B. Safety	3.	right to integrity of person -physical	(freedom from torture, assault, injury)
		-psychic	(freedom from arbitrary & degrading treatment)
	4.	right of child to basic health care	(freedom from preventable poor health)
	5.	right to cleaner water, air	(freedom from conditions causing poor health)
C. Love/ D. Esteem		lower level gratification	
	6.	right to more complete gratification of physiological & safety needs	(freedom from malnutrition; freedom from arbitrary & degrading treatment, i.e., more complete due process, for example)

C. Love/
D. Esteem — higher level gratification

E. Self-actualization

7. right to equal treatment and equal opportunity
(freedom from prejudice & discrimination in education, employment, political participation, etc.)

8. right to unrestricted (nonharmful) behavior
(freedom from restrictions on speech, assembly, religion, movement, life-style, etc.)

9. right to access to information
(freedom from restrictions on information, purposeful manipulations of information for deceptive purposes)

The empirical base of the hierarchy of human rights should be clear. Its value, on the other hand, is still perhaps somewhat uncertain until several issues prevalent in the relevant literature are addressed. It will be shown below that a conceptualization of human rights based on inherent needs allows for satisfactory resolution of many of these issues.

Social and economic rights were merged in the hierarchy with political and civil rights without any distinction made between them. These distinctions are maintained by many to be critical. Cranston argues, for example, that the incorporation of social and economic rights has "muddled, obscured, and debilitated" what had been "a philosophically respectable concept of human rights". In his attack on the logical status of this incorporation he covers the major arguments usually made: that is, the closely related issues of scope of required action, capability, and duty.[57]

It is frequently maintained that political and civil rights are "negative", that is, they require only that no one interfere with their exercise. They are, Nardin argues, "claims against intervention by others...in the private sphere

of the individual".[58] And, as Cranston notes, they usually "can be secured by fairly simple legislation".[59] In contrast, the social and economic rights are termed "positive" rights. They are viewed as requiring positive action from others. These rights are also viewed as substantive, giving rise to the issue of capability. As Claude points out, "economic development is a necessary, though hardly a sufficient, condition for a comprehensive system of positive rights".[60] But most of the world is poor, very poor. Cranston therefore stresses, "If it is impossible for a thing to be done, it is absurd to claim it as a right".[61] Or, as Nardin succinctly puts it, "Ideals are not rights".[62]

The distinction is not so apparent, however, when we move from the abstract to its application to a complex modern society. Civil and political rights, in order that they be protected, often require positive government action beyond the passage of laws. The amount of money spent on police forces in the United States is probably more than what would be required to provide everyone in the country with an adequate diet. If judges were paid the median U.S. income, would this free enough funds to guarantee adequate prenatal care for all expectant mothers?[63]

This flawed distinction between negative and positive rights becomes even more apparent when economic rights are conceptualized not as society's obligation to provide, but rather as the individual's right to fulfillment. It should be easy to see that in the United States the presence of hungry people is not the result of insufficient economic development, but instead is a consequence of a certain form of social organization. The only other possible interpretation would be individual choice.[64] Such an explanation, however, is contradicted by the motivational theory underlying this paper.

This argument also applies to less developed countries, their poverty not withstanding. When the individual's right to a mildly inadequate diet is viewed in terms of a societal obligation to provide, the discussion inevitably leads to insufficient economic capability. More relevant, however, is the discussion of factors which prevent or inhibit the individual's attempt to gain fulfillment of basic needs. Lack of economic development is not a sufficient explanation of the plight of people with insufficient or no land in countries covered by undercultivated estates of vast size. Nor does it explain people with too little to eat because Del Monte, for example, has leased land previously used for locally-oriented production in order to produce for export.

The lives of people with insufficient diets must be viewed in the context of countries with certain forms of social organization and with certain relationships with the international marketplace. These are factors which inhibit or prevent people from enjoying their basic right to food. In the traditional parlance, is this not a "negative" right?[65]

This is not to say that economic capability is irrelevant. Obviously it is not. The point needs to be made very clearly, however, that human rights refer to the rights of individuals and not to what society can or wants to deliver to the individual. When it is said that society has insufficient economic capability, what is really being said is that the society is not presently organized and/or performing in a way to allow fulfillment of rights. This is not, however, a statement about the capacity to do so under other forms of organization. It most certainly is not a statement about the existence of human rights. The existence of human rights is independent from the form of social organization; their fulfillment, on the other hand, is obviously conditioned by the social context.[66]

In order to adequately complete this discussion of the issue of capability, the related question of duty must also be addressed. Cranston asserts that all rights entail duties. The universal right to life imposes this duty on everyone to respect life, to refrain from endangering life. The economic and social rights, on the other hand, "impose no such universal duty". Cranston makes this error, in part, because he views such rights as "the rights to be given things". Therefore, he can properly ask, "who is called upon to do the giving"? [67]

This problem largely disappears when we instead view human rights as the right to the fulfillment of innate needs. This is not an assertion that society should fulfill them, but that the individual be allowed to fulfill needs. In the previous discussion of food it was seen that the basic right is not to a "thing", or to be given a thing, but to the right to fulfill the physiological needs. Whose duty does this entail? Everyone's. It is everyone's duty to respect this right, not to infringe on this right.[68] If the individual is unable to gratify the need, then it must be concluded that society itself is frustrating the exercise of this right. Since society is frustrating the

right, then a societal duty is engendered to provide for its satisfaction. Given the relevance of international factors to the production and consumption of foodstuffs, a strong case can be made that this duty extends to the people of the developed world in relation to the hungry of the world.[69]

In the same fashion, the safety needs create the right of the individual to safety and not directly a right to protection. The corresponding duty again belongs to everyone. If everyone properly discharged their duties, there would be no need for protection. Since this is not the case, institutions are created and given the duty to provide protection of the safety rights. Even in a country as wealthy as the United States, though, the protection is incomplete. Clearly economic capability is a relevant factor. It is relevant to the ability to perform the duty, however, and not the existence of the right. The inability for economic reasons[70] to provide protection means a duty has not been sufficiently discharged. It does not diminish or negate the existence of a right to safety.

Similar principles hold with the higher rights. Because a country is at a level of development where virtually all countries discriminate against minorities or women or restrict access to information does not mean that these are not human rights which are being violated. Perhaps it will be another generation, or even several, before these rights are widely realized in such a country. That does not negate the existence of the needs upon which these rights are based.

On the other hand, it is quite possible that for many individuals in such a country these rights are not particularly relevant.[71] They perhaps are motivated instead by a concern for food and safety. As these lower needs/rights are met, however, the higher needs will become preponderant, they will become salient and important. The meeting of the lower needs means, most likely, that there has been an increase in economic capability. Accordingly, there is also an increased capacity to meet further economic needs, such as economic security. Duties which were previously overlooked can increasingly be discharged.[72]

This is to suggest that a hierarchy of human rights entails a corresponding hierarchy of duties. Individually

we have the duty to respect the rights of others. Where duties conflict (logically or practically), we have a duty to honor the preponderant right (that is, the lowest unfulfilled right), of the individual or between individuals. This means that a human rights movement internationally would want to concentrate its energies on freeing all people from murder, severe malnutrition, and torture. Within any nation, first priority should be given to the preponderant rights of those with the lowest unmet needs. At the same time, there are many opportunities for exposing and removing the barriers to fulfilling everyone's preponderant needs. There is no one better to quote than Christian Bay when he wrote:

> The opportunity to live a natural life span is the most fundamental of all freedoms; and the first priority goal for which political institutions exist, according to my view, is to maximize freedom for all, with priority for those who at a given time are least free.[73]

NOTES

[1]What Are Human Rights? (New York: Taplinger Pub. Co., Inc., 1973), pp. 5-7. For good surveys of the development of the Western concept of human rights see: Frede Castberg, "Natural Law and Human Rights. An Idea-historical Survey," in Asbjorn Eide and August Schou, eds., International Protection of Human Rights (New York: Interscience Pub., 1968), pp. 13-34, and Richard P. Claude, "The Classical Model of Human Rights Development" in Claude, ed., Comparative Human Rights (Baltimore: Johns Hopkins University Press, 1976), pp. 6-50.

[2]Cranston, op. cit., p. 21.

[3]Ibid., pp. 25, 34. He also discusses the "freedom of expression" and the "right to property", although their justifications are less apparent.

[4]For other examples see the essays by H.L.A. Hart, Stuart M. Brown, and William Frankena in Philosophical Review, LXIV, 2 (April, 1955), pp. 175-232; and Vernon Van Dyke, Human Rights, the United States, and World Community (New York: Oxford University Press, 1970), pp. 3-76, passim.

[5]Abdul Aziz Said, "Pursuing Human Dignity", Society, 15, 1 (November/December, 1977), p. 34. Also see Said and Ali Mohammadi, "Human Rights: An Islamic Context" (paper presented at the annual meeting of the International Studies Assn., Washington, D.C., February 22-25, 1978. For an earlier statement see "Statement on Human Rights of the Executive Board of the American Anthropological Association," American Anthropologist 49 (1947), p. 539.

[6]Ironically, this view in turn has been charged with parochialism. Latif O. Adegbite claims that "to arrogate the origins of the notion of human rights to a particular race is to deny their Natural Law basic and their inherent quality. Such racist thinking has regretably done considerable disservice to the general effort to secure universal adherence to human rights." "African Attitudes to the International Protection of Human Rights," in Eide and Schou, op. cit., p. 71.

[7]Imre Szabo, "The Theoretical Foundations of Human Rights," in Eide and Schou, op. cit., pp. 39-40.

[8]Franciszek Przetacznik, "The Socialist Concept of Protection of Human Rights," Social Research 38, 2 (Summer, 1971), p. 350.

[9]Szabo, op. cit., p. 40

[10]Przetacznik, op. cit., p. 350.

[11]My thinking along this line was provoked some time ago by Christian Bay's suggestion that human rights could become natural rights "to the extent that the behavioral sciences can demonstrate that each right corresponds to a universal human need -- a need actually or potentially rooted in all human beings everywhere." The Structure of Freedom (New York: Atheneum, 1965), p. 372.

[12]Joel Feinberg, Social Philosophy (Englewood Cliffs: Prentice-Hall, Inc., 1973), p. 89. Here he is drawing on Gregory Vlastos' essay on "Justice and Equality" in Richard B. Brandt, ed., Social Justice (Englewood Cliffs: Prentice-Hall, Inc., 1962), pp. 43-50.

[13]Feinberg, op. cit., pp. 90-93. From this point, it seems to me, his argument deteriorates. First, he reduces the "real point of the maxim that all men are equal" down to the fact that "all men equally have a point of view of their own." Secondly, he later infers that this attitude is independent of any shared qualities, which contradicts the passage quoted above.

[14]Ibid., p. 94. State of consciousness would probably be a better term than attitude.

[15]Abraham H. Maslow, The Psychology of Science: A Reconnaissance (Harper & Row. 1966), p. 116.

[16]A frequent criticism of actualization models such as Maslow's is that many harmful, negative, and evil traits are also part of the human potential. Maslow does not ignore these potentials; rather he argues that they are largely the result of need deprivation. While the process of development opens a person to one's potential, in a sense it also limits it. What are increasingly excluded in the growth process are the unhealthy potentials because there is no longer any motivation for them. Some people are more capable of being Napoleonic, for example, than are others. It is unlikely that the person with a sense of esteem grounded on a real and realistic sense of oneself and one's own natural powers would possess this tendency to the extent that another person would whose development had been crippled by forces leaving the person with a lack of self-respect and self-knowledge and at the mercy of the superficial judgements of others.

[17]Maslow, Toward a Psychology of Being (2nd ed.; New York: D. Van Nostrand Co., 1968), p. 167. Elsewhere Maslow asserts, "A damaged organism isn't satisfied just to be what it is, merely damaged. It strives, presses, and pushes; it fights and struggles with itself in order to make itself into a unity again." The Farther Reaches of Human Nature (New York: Viking Press, 1971), p.119.

[18]Toward, op. cit., p. 84.

[19]Similarly, Vlastos asserts that "the equality of human worth would be justification, or grounds, of equal human rights." For his supporting argument see "Justice and Equality", op. cit., pp. 50-52.

[20]For a review of the major conceptualizations of human needs see Charles Brockett, Human Needs and Political Development (unpublished Ph.D. dissertation, University of North Carolina, Chapel Hill, 1974), pp. 140-191.

[21]Motivation and Personality (2nd ed.; New York: Harper & Row, Publ., 1970), pp. 19-29. Anyone desiring further insight into Maslow's work should begin with this book.

[22]He presents much more evidence, especially his studies of self-actualizing people which indicates that their development is "unequivocally" based on the gratification of lower needs. Pp. 88-95. In her summary of the relevant literature, Jeanne N. Knutson finds no behavioral studies "the results of which contradict any of Maslow's theses on the motivation levels of the human personality." Human Basis of the Polity (Chicago: Aldine-Atherton, Inc., 1972), p. 105. For parallel findings see Salvatore R. Maddi, Personality Theories: A Comparative Analysis (Homewood: The Dorsey Press, 1968) and Charles Hampden-Turner, Radical Man (Garden City, Doubleday & Co., 1971), pp. 130-133. On the other hand, the criticism of Maslow's work which I am aware of seem to me to be, on the whole, in error, non-substantive, or objections sufficiently clarified in later works. See, for example Kai Nielsen, "On Taking Human Nature as the Basis for Morality," Social Research, 29 (Summer, 1962), pp. 170-174. The primary exception is Brewster Smith, "On Self-Actualization: A Transambivalent Examination of a Focal Theme in Maslow's Psychology," Journal of Humanistic Psychology 13, 2 (Spring, 1973), pp. 17-33.

[23]The attempt to summarize creates the danger of rendering a rich, dynamic, and insightful lifework into a simplistic, mechanistic, and even trite few pages. Such distortions, it is hoped, will be held to a minimum.

[24]Robert Stauffer, "The Biopolitics of Underdevelopment," Comparative Political Studies, 2 (October, 1969), pp. 363-377.

[25]Motivation, op. cit., pp. 39-43.

[26]J. C. Davies, Human Nature in Politics (New York: Wiley, 1963), pp. 9-10. He therefore chooses to delete safety from the need hierarchy. Bay agrees as to the instrumental nature of security, but nevertheless prefers to retain it as an equal part of the hierarchy. "Needs, Wants and Political Legitimacy," Canadian Journal of Political Science, I (September, 1968), p.249.

[27]By frame of reference is meant a context by which one can understand and deal with the world. For more complete discussion see Erich Fromm, The Sane Society (Greenwich: Fawcett Publ., Inc., 1955), pp. 64-66, 172-175. For a more thorough discussion of Maslow's safety needs see Brockett, "Toward a Clarification of the Need Hierarchy Theory: Some Extensions of Maslow's Conceptualization," Interpersonal Development, 6 (1975/1976), pp. 80-82.

[28]Motivation, op. cit., pp. 43-44.

[29]Ibid., pp. 183-203.

[30]Ibid., pp. 45-46.

[31]Ibid., pp. 53-54.

[32]Farther Reaches, op. cit., p. 285.

[33]For a more complete discussion of these points see Brockett, "Toward a Clarification," op. cit., pp. 82-85.

[34]Motivation, op. cit. p. 46.

[35]Ibid., p. 45.

[36]Ibid., pp. 134-135.

[37]The distinction between the two is somewhat clouded, however, because the major characteristics of the self-actualized person are also those of a self-actualizing experience (Maslow's famous "peak experience"). And it is possible for the non-self-actualized, particularly those who have gratified the lower needs, to have these experiences. The recognition of these distinctions led Maslow in one of his later articles to redefine self-actualization "as an experience rather than as a personality type." Toward, op. cit., p. 97.

[38]Farther Reaches, op. cit., pp. 46, 106-108, 135, and Toward, pp. 74-96.

[39]For example, a frame of reference can be adequate for sanity regardless of its validity, since illusions can be functional. Such illusions, however, can inhibit further growth.

[40]That is, the attempt to specify preponderant needs should be verifiable empirically. Marvin Schiller makes a similar suggestion that "we should think of natural rights as being more or less alienable in terms of discerning preference." "Are There Any Inalienable Rights?", Ethics 79, 4 (July, 1969), p. 314. He refers to preferences, however, and not to underlying motivation (which may differ from stated preferences).

[41]For a discussion of the difficulty of specifying the requirements of an adequate diet, see Linda Haverberg, "Individual Needs: Nutritional Guidelines for Policy?" in Peter G. Brown and Henry Shue, eds., Food Policy: The Responsibility of the United States in the Life and Death Choices (New York: The Free Press, 1977), pp. 212-233. For related discussion see the essays in the same volume by John Osgood Field and Mitchel B. Wallerstein, Michael F. Brewer, and Morge W. Jerome. Also see Alan Berg, The Nutritional Factor (Washington, D.C.: The Brookings Institution, 1973).

[42]Such distinctions may seem overly fine on paper. In a world of acute need and limited resources, the differences are critical. The differentiation of priorities among rights as specifically as possible is therefore of paramount importance.

[43]I choose to ignore the questions of capital punishment, abortion and euthanasia.

[44]There are obvious moral distinctions to be drawn between the torturer and the driver of the car. These distinctions are separate, however, from the individual's safety rights. On the other hand, there are qualitative distinctions between suffering brutal torture and a minor traffic injury, just as there are with the physiological rights. Related to these distinctions is the question of the duties which correspond to these rights. They will be discussed below.

[45]Along with the right to economic security, basic health care raises the central problem of the relationship between individual rights and the capacity of society to provide for those rights. This issue will also be addressed below.

[46]Motivation, op. cit., p. 41. The ability to tolerate chaos, change, disorder and so on increases, generally, with the fulfillment of this need.

[47]See Bay's discussion of security as "the relative absence of fear". Fear is in turn defined as "a state of apprehension or uneasiness in response to a realistically perceived, specific danger." Structure, op. cit., pp. 67-75.

[48]Recall that these are empirically based distinctions. Higher means more complete gratification of the need and greater facilitation of meeting higher needs.

[49]It is at the point between these two levels that I hypothesize that a more complete gratification of the physiological and safety needs becomes necessary.

[50]Roger J. Williams, "The Biological Approach to the Study of Personality," in Theodore Millon, ed., Approaches to Personality (New York: Pitman Pub. Co., 1968), p. 18-22.

[51]Amitai Etzioni makes a similar argument in The Active Society (New York: The Free Press, 1968), p. 625.

[52]This is similar to Hart's one natural right, "the right to forbearance on the part of all others from the use of coercion or restraint against him save to hinder coercion or restraint." Op. cit., p. 175.

[53]For relevant background see, among many others, James C. Coleman, Abnormal Psychology and Modern Life (Glenview: Scott, Foresman & Co., 1964), Marvin K. Opler, ed., Culture and Mental Health: Cross-Cultural Studies (New York: Macmillan Co., 1959), Stanley C. Plog and Robert B. Edgerton, eds.,Changing Perspectives in Mental Illness (New York: Holt, Rinehart & Winston, Inc., 1969), Neil J. Smelser and William T. Smelser, eds., Personality and Social Systems (New York: Holt, Rinehart & Winston, Inc., 1970), Nicholas N. Kittrie, The Right To Be Different: Deviance and Enforced Therapy (Baltimore: Johns Hopkins Press, 1971), Seymour L. Halleck, M.D., The Politics of Therapy (New York: Science House, Inc., 1971), R. D. Laing, The Politics of Experience (New York,

Ballantine Books, Inc., 1967), Betty Friedan, The Feminine Mystique (New York: Dell Pub. Co., Inc., 1963), Kate Millett, Sexual Politics (New York: Avon Books, 1970), Warren Farrell, The Liberated Man (New York: Random House, 1975), and Arnold A. Rogow, "Psychiatry and Political Science: Some Reflections and Prospects," in Seymour Martin Lipset, ed., Politics and the Social Sciences (New York: Oxford University Press, 1967).

[54]Bay, Structure, op. cit., p. 95.

[55]Ibid., p. 325. His discussion here is excellent. See pp. 313-367. As Van Dyke notes, the "freedom of the press" is actually derived from the more basic "freedom of information and the alleged right to know." Op. cit., p. 13.

[56]Erich Fromm, The Heart of Man (New York: Harper & Row, 1964), p. 161.

[57]Cranston, op. cit., pp. 65-71. His attack is simplified by focusing on the virtually endless list of socio-economic rights cited in United Nations' declarations. He ignores, for example, economic subsistence.

[58]Terry Nardin, "International Justice and Human Rights," (paper presented at the annual meeting of the International Studies Association, Washington, D.C., February 22-25, 1978), p. 18.

[59]Cranston, op. cit., p. 60.

[60]Claude, op. cit., p. 34.

[61]Cranston, op. cit., p. 66.

[62]Nardin, op. cit., p. 18.

[63]For an excellent discussion that parallels much of this section see Henry Shue, "Foundation for a Balanced U.S. Policy on Human Rights: The Significance of Subsistence Rights," (working paper of the Center for Philosophy and Public Policy, University of Maryland, November 14, 1977), pp. 13-18. Also Charles R. Beitz's paper from the same series, "Human Rights and Foreign Policy: The Problem of Priorities." He finds no compelling philosophical reason to weigh personal rights above the rest.

[64]There is also the exception of those who lack the ability to take care of themselves. In such cases the first right, the right to life, imposes a societal obligation.

[65]The same argument also applies to the parallel distinction drawn between procedural and substantive rights such as in Nardin's discussion, following Oakeshott's distinctions, of civil versus enterprise associations.

[66]D.D. Raphael's critique of Cranston's position is a good example of the problems created by conceptualizing the socio-economic rights, as Raphael does, as "an obligation to provide" the individual "with something which he could not achieve by himself." Such rights are clearly conditioned by economic capability.

Furthermore, Raphael is lead to the need to differentiate between human rights in the "stronger" and "weaker" senses. By the time he concludes, socio-economic rights have been demoted to secondary status. "Human Rights, Old and New" in D.D. Raphael, ed., Political Theory and the Rights of Man (London: Macmillan, 1967), pp. 61-67. As a result, Cranston's response in the same volume is most effective. "Human Rights: A Reply to Professor Raphael," Pp. 95-100.

[67]Cranston, What Are Human Rights?, op. cit., pp. 68-69.

[68]For a similar answer see Joel Feinberg, "The Nature and Value of Rights," Journal of Value Inquiry, 4 (Winter, 1970), p.256. As he notes, this duty can be discharged "simply by minding my own business."

[69]On this point see Brown and Shue, op. cit., especially the articles by Peter Singer, Thomas Nagel, Peter G. Brown, Samuel Gorovitz, and Victor Ferkiss. Also see Shue's analysis of "subsistence duties," op. cit., pp. 20-25.

[70]Constraints, of course, are not always economic. Others are more relevant in cases such as institutionalized torture or wife beating.

[71]Obviously I also disagree with Cranston's assertion that a right is only a right if it is claimed as a right. What Are Human Rights, op. cit., p. 81.

[72]The right to basic health care is more complex, but can be adequately established within this framework. Minimal health care, especially pre- and post-natal care, is so basic to surviving early childhood, and surviving on a sound footing, that it should be included among the most basic safety needs. The infant obviously does not possess the ability to provide for its own health needs; it is dependent upon others. Logically, I think, it is a duty owed by all able adults to all children. In other cases, basic health care can best be understood as part of the equality rights. It is part of the equal opportunity to develop one's potential since poor health is often such a powerful barrier. On the other hand, basic health care for all could be understood as one of the last safety needs, that is, the protection against the effects of ill health. Given the hierarchical nature of each set of needs, however, it seems that the last of the safety needs would correspond, motivationally, to the lowest level of the equality needs. Health care, then, could be conceptualized either way. It makes most sense to me to understand it as part of the equality rights because, more than any of the other rights, it seems to be most closely related to economic capability and because it so clearly raises the question of the equity of the distribution of critical resources.

[73]Bay, op. cit., p. xxiii.